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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,497	01/26/2006	Wolfram Reddig	05579-00351-US	7962

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CONNOLLY BOVE LODGE & HUTZ, LLP  
P O BOX 2207  
WILMINGTON, DE 19899

EXAMINER
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KLEMANSKI, HELENE G

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/562,497

Applicant(s)

REDDIG ET AL.

Examiner

Helene Klemanski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-19 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/27/05</u> .  | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The references cited in the Search Report dated February 22, 2005 have been considered.

### ***Specification***

2. The abstract of the disclosure is objected to because it has reference to the claims and there is no guarantee that those claims will issue and that their claim numbers will be the same as those mentioned in the abstract when issued. The examiner suggests the deletion of the reference to the claims from the abstract. Correction is required. See MPEP § 608.01(b).
3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: no literal antecedent basis is seen for the phrases:
  - (1) "which include one or more reactive dyes of the general formula (1) in amounts from 0.01% by weight to 40% by weight based on the total weight of the inks" in claim 10 (applicants disclose on page 8, lines 24-29 of the specification that the dyes are present in an amount of 0.1-50% by weight, preferably 1-30% by weight and more preferably 1-15% by weight);
  - (2) "which include 1% to 40% by weight of organic solvents based on the total weight of the ink" in claim 11 (applicants disclose on page 9, lines 1-2 of the specification that the

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organic solvent is present in an amount of 0.1-50% by weight, preferably 5-30% by weight) and

(3) "which further comprise 1% to 40% by weight of organic solvents based on the total weight of the ink" in claims 14, 16 and 18 (applicants disclose on page 9, lines 1-2 of the specification that the organic solvent is present in an amount of 0.1-50% by weight, preferably 5-30% by weight). The examiner suggests the incorporation of the above phrases into the specification or the claims amended accordingly.

### ***Claim Objections***

4. Claim 13 is objected to because of the following informalities: in claim 13, the term "sulfur" should be replaced with the term "sulfo". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12, 15, 17 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 12, 15, 17 and 19, the term "utilizing" is indefinite. A "process" defined in the sole terms of "using" does not define patentable subject matter under 35 USC

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101. See *In re Fong*, 129 U.S.P.Q. 264 (CCPA 1961). The examiner suggests incorporating defined method steps into these claims to overcome the rejection.

### ***Claim Rejections - 35 USC § 102***

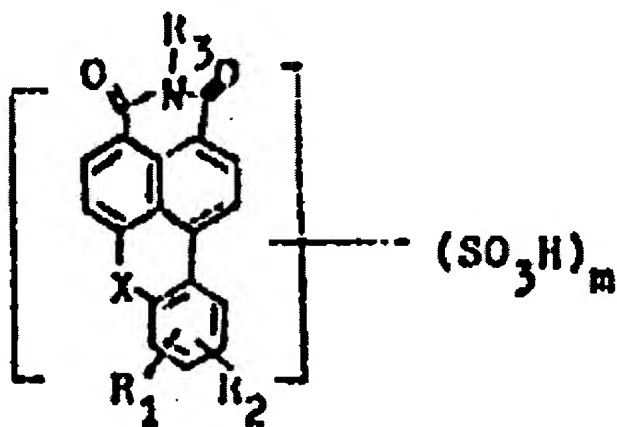
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-12 and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Meininger et al. (US 3,888,862).

Meininger et al. teach a water-soluble reactive xanthene dye of the formula



wherein  $R_1$  and  $R_2$ , which may be the same or different, represent H, a halogen atom, a C1-4 alkyl group or a C1-4 alkoxy group; X represents an oxygen or sulfur atom or a CO-group; m is a number from 1 to 3 and  $R_3$  is a group of the formula



wherein W represents a bivalent bridge member such as  $-\text{CH}_2-\text{CH}_2-$  or  $-\text{CH}_2-\text{CH}_2-\text{CH}_2-$ ;

A represents a bivalent, mono- or bi-nuclear aromatic group such as phenylene or naphthalene group or a bivalent diphenyl in which the group A may be substituted with sulfo groups in the aromatic group; B represents a bivalent bridge member such as  $-\text{CH}_2-\text{CH}_2-$  or  $-\text{CH}_2-\text{CH}_2-\text{CH}_2-$  or  $-\text{NR}_4$ ;  $R_4$  represents H or an optionally substituted lower alkyl group; Y represents a reactive group such as a diazine or triazine ring having Cl, Br or F as substituents; n, p and q represent 0 or 1 and r represents 1 or 2.

The reactive xanthene dyes are suitable for dyeing and printing of various fiber materials and can be used according to the dyeing and printing methods used in the art for reactive dyestuffs. See col. 1, lines 5-64, col. 2, lines 3-7, col. 4, lines 48-65, col. 10, lines 47-57, examples 3, 17 and 32-34 and claim 1. The water-soluble reactive xanthene dye as taught by Meininger et al. appears to anticipate the present claims.

### ***Allowable Subject Matter***

9. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: None of the cited prior art teaches or fairly suggests a xanthene dye wherein T

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is phenylene, which is unsubstituted or substituted by 1 or 2 substituents selected from the group consisting of C1-4 alkyl, C-14 alkoxy, carboxyl, sulfur (sic), chlorine or bromine and Z represents  $-\text{CH}-\text{CH}_2$ ,  $-\text{CH}_2\text{CH}_2\text{Z}^2$  or hydroxyl wherein  $\text{Z}^2$  is hydroxyl or an alkali-detachable group as claimed by applicants.

### ***Conclusion***


The remaining references listed on forms 892 and 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Helene Klemanski  
Primary Examiner  
Art Unit 1755

  
HK

October 2, 2006